Growth of Food

944 **File No.** Crops II
44

Legal Department

B **BRANCH**

---

**Subject:—** Rules and Notifications under the Bombay Growth of Food Crops Act, 1944

E
Page-4
1944

**File No.** Growth of Food Crops II/44

Gen. 194 e.

280-B

Office of the R.L.A.

A revised draft of the rules embodied in a draft notification for previous publication, as required by sub-section (2) of section 13 of the Bombay Growth of Foodcrops Act, 1944, is sent herewith. With reference to A of Secretary, R.D.'s note at page 1 ante, attention is drawn to rule 62 of the Secretariat Instructions.

2. R.D. draft rules 1, 2, 3 and 5, all of which relate to orders under sections 3 and 4, have been combined into revised rule 1. It is not necessary to incorporate in the rules the cases cited by R.D. However, if it is desired to do so, they may be added as illustrations to clause (i) of rule 1 as shown in slop A. The blanks in the illustrations should be filled in by R.D. in accordance with the reduced proportion in the Explanation to sections 3 and 4.

3. R.D. draft rule 4 is beyond the scope of the rule-making power under section 13 of the proposed Act and is omitted. The onus in prosecutions lies on the prosecutor, and this is true in respect of offences under section 11 of the Act. Crop registers which are village Form XII are evidently maintained under executive instructions; they are neither the record of rights nor the register of mutations within the scope of the presumption under section 135J of the Land Revenue Code. A fresh presumption in respect of village Form XII can be created by specific enactment but cannot be imposed by a rule.

4. R.D. draft rule 6 has been inserted as revised rule 2 and R.D. draft rule 7 as revised rule 3.

Id/- P.M.M.
23/5/44.
Remembrancer of Legal Affairs.

U.R. to R.D., No. 8699, dated the 23rd May 1944.

Office of the R.L.A.

In view of A(F)'s note at page 18 ante, the draft notification at page 21 has been amended to provide for the addition of a new entry (iv to the schedule to Government Notification , Revenue Department, No. 7133/39(e), dated 5th June 1944 exempting the portion of a cultivator's holding in which potatoes are grown.

Id/- P.N.M.
29/6/44.
Remembrancer of Legal Affairs.

U.R. to R.D., No. 4598, dated the
30th June 1944.

MSR.
16/7.

Office of the R.L.A.

As stated in R.L.A.'s opinion No. 41-L, dated the 26th July 1944 the Explanation to sections 3 and 4 prescribes the mode of calculation of the area under a scheduled crop and a non-scheduled crop in cases where a scheduled foodcrop is grown as a mixed crop with any non-scheduled crop and that no other alternative mode of calculation is prescribed under the Act. It is true that rule 1(iv) of the rules made under section 13 of the Act prescribes how the area under the scheduled foodcrops shall be calculated in the case where the scheduled foodcrops are grown as a mixed crops in rows with any crop other than a scheduled foodcrop. But that rule is subject to the maximum laid down in the Explanation to section 3 and 4. That rule is relatable to the Explanation and will not therefore apply in cases where the Explanation does not apply. It is not legally feasible to exempt specified portions of the cultivators' holdings in the areas in the Dharwar District "from the provisions of the Explanation" as proposed in the draft notification at page 11 as now modified by Secretary, R.D.

Id/- P.N.M.
11/8/44.
Remembrancer of Legal Affairs.

U.R. to R.D., No. 98-P. dated the 11th August 1944.

MSR.
16/7.

Office of the R.L.A.

The Act having been brought into force in certain areas by a notification, any amendments of the Act will automatically apply in those areas. So far as the new section 10A is concerned, however, the amending Act provides that it will only apply to areas to which it is specifically made applicable by a notification. Therefore a fresh notification will be needed to bring the provisions of section 10A into effect.

2. The notification at page 125 ante has been suitably amended on the presumption that it is intended to apply section 10A to the areas in which the Act has been brought into force by Government Notification in the Revenue Department, No. 7133/39 of the 20th May 1944.

3. The view of the Deputy Secretary, Reconstruction Department, as expressed in R.D. office note at page 122 is incorrect.

Id/- P.N.M.
15/12/44.
Remembrancer of Legal Affairs.

U.R. to R.D., No. 8871, dated the
16th December 1944.

MSR.
16/7.